

BURTON GREEN PARISH COUNCIL

LGPS EMPLOYER DISCRETION POLICY

Under Regulation 60 of the LGPS Regulations 2013, (as amended), each scheme employer must publish and keep under review a Statement of Policy to explain how it will apply certain discretions allowed under the Pensions Regulations. This document outlines Burton Green Parish Council's ("the Council") policy on the application of all mandatory and some non-mandatory discretions which we have the power to exercise in relation to members of the Local Government Pension Scheme ("the Scheme").

WHAT ARE DISCRETIONS?

Discretions are powers that enable employers to choose how to apply the rules of the Scheme in respect of certain provisions.

There are many employer discretions in the current Scheme regulations and several more still existing from previous Schemes; however only a relatively small number of employer discretions have to be published.

Discretions fall into two categories:

- i. Those which must be formulated and published (**mandatory discretions**).
- ii. Those which don't need to be formulated and published (**non-mandatory discretions**)

A summary of the mandatory and non-mandatory discretions applied by the Council are provided in this policy. The various discretions noted apply to specific groups of members of the Scheme based on their date of entry into the Scheme. The Council may give further consideration where there are exceptional circumstances and clear merit, or where the cost is not considered to be significant or material.

APPLICATION OF THIS POLICY

In applying this policy, the Council will ensure that:

- i. It applies the discretions reasonably, after taking account of all relevant factors, for example the cost to the Council balanced against the benefit to Scheme member;
- ii. Its discretions are not fettered, i.e., being used in such a way that individual circumstances cannot be considered; and
- iii. That all discretionary decisions are recorded.

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DISCRETION REQUESTS

All requests by current employees for the exercise of a discretion under this policy should be made in writing to the Clerk who will liaise with the Full Council over the approval process. The request should contain all of the supporting information that the member considers relevant, and each request will be considered on its specific merits and circumstances.

Where an employee has left the Council service they should address their application to the Clerk who will make the necessary arrangements for their request to be considered.

DISPUTES

Any complaints relating to a decision made by the Council as an Employer within the LGPS should be initially raised under the Pension Scheme's [Internal Disputes Resolution Procedure](#)

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APPLICATION OF MANDATORY DISCRETIONS

The following mandatory discretions apply to members who were actively paying into the Scheme as at 1 April 2014 onwards:

REGULATION	EMPLOYING AUTHORITY DISCRETION	POLICY
16(2e) and (4d) LGPS Regulations 2013	<p>Whether, how much, and in what circumstances to contribute to a Shared Cost APC scheme (“Shared Cost Additional Pension Contribution”).</p> <p>Where an active Scheme member has decided to make Additional Pension Contributions to purchase extra pension benefits within the applicable statutory limit in force from time to time, the employer can resolve to voluntarily contribute towards the cost of this too.</p>	<p>The Council will not fund Scheme members’ Additional Pension Contributions in whole or in part.</p> <p>Where a Scheme member has a period of authorised unpaid leave of absence and elects within 30 days of return to work to pay a shared cost APC to cover the amount of pension “lost” during that period of absence. In these cases, the employer MUST contribute 2/3rds of the cost (Regulation 15(5) of the LGPS Regulations 2013.</p>
30 (6) of the LGPS Regulations 2013); [regulations 11(2) and 11(3) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014], [regulation 3(5) of the LGPS (Transitional Provisions, Savings and Amendment)	<p>Whether to allow flexible retirement for staff aged 55 or over who, with the agreement of the Scheme employer, reduces their working hours or grade and, if so, as part of the agreement to allow flexible retirement.</p> <p>Whether, in addition to the benefits the member has built up prior to 1 April 2008 (which the member must draw), to allow the member to choose to draw:</p> <ul style="list-style-type: none"> • all, part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014, and / or 	<p>The Council may choose to waive this reduction in exceptional circumstances e.g. where the employee has had to amend their working arrangements to care for a chronically ill spouse or partner.</p> <p>The above is on the condition that the likely pension strain costs can be met within the Council’s budget.</p> <p>The Council will only consent to a flexible retirement application where the employee elects to draw all of the benefits that relate to their LGPS membership.</p>

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<p>Regulations 2014, regulation 18(3) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and Regulations 30(6) and 30(8) of the LGPS Regulations 2013)</p>	<ul style="list-style-type: none"> • all, part or none of the pension benefits they built up after 31 March 2014 and <p>Whether to waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA)</p> <p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up whilst still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.</p> <p>In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives the reduction either fully or in part or a member has protected rights.</p> <p>If members are allowed to retire under flexible retirement, and they meet the 85 year rule between the ages of 55 and 60, there may be a pension strain cost to the employer as there is no option to switch the 85 year rule off in this instance.</p>	
<p>30(8) LGPS Regulations 2013, 3(1), Sch 2, para 2(1), B30(5) and</p>	<p>Whether to waive, in whole or in part, any actuarial reductions on benefits which a member voluntarily draws before normal pension age (other than on the grounds of flexible retirement).</p>	<p>The Council will generally not waive the actuarial reduction.</p>

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<p>B30A(5) LGPS Transitional Provisions, Savings and Amendment) Regulations 2014</p>	<p>Employers can agree to waive any actuarial reductions due in the case of employees retiring any time after age 55. Employers should also note that the strain cost of any such retirements would need to be met by the employer and paid into the Pension Fund at the appropriate time.</p>	<p>The Council may choose to waive the actuarial reduction in exceptional circumstances depending on each individual case, if it is agreed that the likely pension strain costs can be met within the Council’s budget. Consideration will be given to the waiving of the actuarial reduction to the benefits where the member had to give up work to provide for a chronically ill spouse or partner.</p>
<p>31 LGPS Regulations 2013</p>	<p>Whether, at the full cost to the Scheme employer, to grant extra annual pension within the applicable statutory limit in force from time to time, to an active member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency</p>	<p>The award of additional pension should only be applied in exceptional circumstances where this is necessary to address a situation where there would otherwise be a significant risk of harm to the Council’s services or objectives.</p>
<p>Paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p>	<p>Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p> <p>Active members are now able to voluntarily retire between ages 55 and 60. If they were a member of the LGPS on 30 September 2006 then some of their benefits could be protected from reductions applied to early payment under the 85 year rule. This rule only applies automatically to members voluntarily retiring from age 60 but the employer has the discretion to “switch it on” for voluntary retirements between age 55 and 60.</p>	<p>The Council has a policy of “switching off” the rule of 85 protections for affected members on a case by case basis. This would allow those staff who wish to retire under the 85 year rule and take the actuarial reduction themselves (at no cost to the council), to do so.</p> <p>The 85 year rule will only be “switched on” in exceptional circumstances. Each case will be considered individually by the Full Council.</p>

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	<p>This discretion does not apply to flexible retirement (see Regulation 30(6)) whereby the 85 year rule is always switched on.</p> <p>Where the employer does not choose to “switch on” the rule, then benefits built up would be subject to reduction in accordance with actuarial guidance issued by the Secretary of State regardless of whether a member meets the rule.</p> <p>If the employer does agree to “switch on” the 85 year rule, the employer will have to meet the cost of any strain on fund resulting from the payment of benefits before age 60 i.e. where the member has already met the 85 year rule or will meet it before age 60.</p>	
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The following mandatory discretions apply to members who left the Scheme between 1 April 2008 and before 1 April 2014:

REGULATION	EMPLOYING AUTHORITY DISCRETION	POLICY
Paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014	<p>Whether to “switch on” the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60 or upon the voluntary early payment of a suspended tier 3 ill health pension</p> <p>A member with a deferred benefit who left the Scheme voluntarily between 1 April 2008 – 31 March 2014 and who</p>	The Council has a policy of “switching off” the rule of 85 protections for affected members on a case by case basis. This would allow those staff who wish to retire under the 85 year rule and take the actuarial reduction themselves (at no cost to the Council), to do so.

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	<p>has subsequently become a deferred pensioner may now claim their benefits from age 55 without their employer's consent. However, these benefits will be reduced for early payment. Where a member has reached the 85 year rule at the point of retirement, an employer can consent to switching on the 85 year rule. Any 'strain' to the Fund will be payable by the Scheme employer.</p>	
<p>30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p>	<p>Whether to waive reductions which may occur on deferred benefits claimed between ages 55-60 or suspended tier 3 ill health for leavers between 1 April 2008 and 31 March 2014.</p> <p>A member with a deferred benefit who left the Scheme voluntarily between 1 April 2008 – 31 March 2014 or was awarded a Tier 3 ill health pension under the 2007 Regulations and who has subsequently become a deferred pensioner may now claim their benefits from age 55 without their employer's consent. However, these benefits will be reduced for early payment.</p> <p>An employer can consent to waiving any reductions, on compassionate grounds, which may be applied to deferred benefits or suspended tier 3 ill health pension paid early</p>	<p>Consideration will be given by the Full Council to the waiving of the actuarial reduction to the benefits where the member had to give up work to provide for a chronically ill spouse or partner.</p>
<p>30A(5) of the LGPS (Benefits, Membership and</p>	<p>Whether to, on compassionate grounds, to waive any actuarial reduction that would normally be applied to any</p>	<p>The Council may choose to waive the actuarial reduction in exceptional circumstances depending on each individual case if it is agreed that the likely</p>

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<p>Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p>	<p>suspended tier 3 ill health pension benefits which are brought back into payment before age 65</p> <p>Waiving reductions should be an additional cost for the employer.</p> <p>No definition of compassionate grounds is given in the LGPS regulations. The term is sometimes interpreted as referring to a situation when a Scheme member is required to give up work in order to be a full time, long term carer for a member of their family.</p>	<p>pension strain costs can be met within the Council's budget.</p>
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APPLICATION OF NON-MANDATORY DISCRETIONS

REGULATION	EMPLOYING AUTHORITY DISCRETION	POLICY
17 of the LGPS Regulations 2013 and 15(2A) of the LGPS Transitional Provisions, Savings and Amendment Regulations 2014	Whether, how much, and in what circumstances to contribute to a Shared Cost Additional Voluntary Contribution (SCAVC) arrangement.	The Council will not contribute to a SCAVE arrangement.
16(16) of the LGPS Regulations 2013	Whether to extend the time limit for a member to elect to purchase additional pension by way of a Shared Cost Additional Pension Contribution upon return from a period of absence	Under the mandatory discretions (Regulation 16(10)) the Council will not fund the Shared Cost Additional Pension Contribution in whole or in part. Therefore, there can be no extension to the time limit in this case.
Transfers of Pension Rights Regulation 100(6)	Whether to extend the 12 month time limit for a member to elect to transfer pension rights from another registered pension scheme into the Scheme with the agreement of the Administering Authority.	The Council may allow in exceptional circumstances where it is clear there has been an administrative delay or error by the employer or the scheme administrator.
22 (7b and 8b) LGPS Regulations 2013	Whether to extend the 12 month time limit for a member to elect not to aggregate post 31 March 2014 (or combinations of pre April 2014 & post March 2014) deferred benefits in relation to a concurrent or new employment.	The Council may allow in exceptional circumstances where it is clear there has been an administrative delay or error by the employer or the scheme administrator.

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<p>10(6) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 as amended by regulation 27 of the LGPS (Amendment) Regulations 2018</p>	<p>Whether to extend the 12 month time limit for a member to elect to aggregate pre 1 April 2014 deferred benefits.</p>	<p>The Council may allow in exceptional circumstances where it is clear there has been an administrative delay or error by the employer or the scheme administrator.</p>
<p>9 and 10 of the LGPS Regulations 2013</p>	<p>How an employee's contribution band will be initially determined and thereafter reviewed</p>	<p>For existing Scheme members the contribution band is determined on pay in April each year. The banding will not normally be reassessed unless in exceptional circumstances the members pay is substantially reduced.</p> <p>For new Scheme members the band is assessed on the salary and additional payments on the date of commencement. This includes existing employees / Scheme members who move to new employment during the year.</p>
<p>21(4)(a)(iv), 21(4)(b)(iv) and 21(5) of the LGPS Regulations 2013 21(5)</p>	<p>Whether to include a regular lump sum payment when calculating assumed pensionable pay (APP).</p> <p>A 'regular lump sum payment' is a payment for which the Council determines there is a reasonable expectation that such a payment would be paid on a regular basis.</p>	<p>The Council does not include any "regular lump sum" to determine Assumed Pensionable Pay for periods of absence, except when determining calculations for ill health retirement or death in service when the Council will consider each case on its merits.</p> <p>In such cases, the primary criteria will be whether it could reasonably be expected that the member would</p>

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		have been likely to receive that regular payment for the foreseeable future.
21(5A) and 21(5B) of the LGPS Regulations 2013]. Although, this discretion is NEW, its effective date is backdated to 1 April 2014 by way of regulation 7 of the LGPS (Amendment) Regulations 2018	Whether, subject to qualification, to substitute a higher level of pensionable pay when calculating assumed pensionable pay (APP)?	Where pensionable pay in the 3 month period prior to commencement of APP is materially lower than the level of pay that would normally have been received, the Council will not normally substitute this with a higher level of pensionable pay, except when determining calculations for ill health retirement or death in service when the Council will consider each case on its merits.
20(1)(b) of the LGPS Regulations 2013	Specify in an employee's contract what other payment or benefits other than specified in Reg 20(1)(a) and not otherwise precluded by Reg 20(2) are to be pensionable.	All pay specified in the employee's contract of employment is pensionable.

Signed (Chair): Cllr Tracey Grant

Date: 20th March 2023

Date for next review: March 2024